

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VII
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

BEFORE THE ADMINISTRATOR

In the Matter of)	EPA Docket No. CAA-7-99-0027
)	
AIR CAPITOL)	CONSENT AGREEMENT AND
PLATING, INC.,)	FINAL ORDER
Wichita, Kansas,)	
)	
Respondent.)	

CONSENT AGREEMENT AND FINAL ORDER

This proceeding for the assessment of a civil penalty was initiated on September 30, 1999, when the United States Environmental Protection Agency (hereinafter "EPA") filed a Complaint and Notice of Opportunity for Hearing in the above referenced matter, pursuant to Section 113(d) of the Clean Air Act (hereinafter "the Act"), 42 U.S.C. § 7413(d).

The Complaint charged Air Capitol Plating, Inc. (hereinafter "Respondent") with violations of the National Emission Standards for Aerospace Manufacturing and Rework Facilities, 40 C.F.R. Part 63, Subpart GG, promulgated pursuant to Section 112 of the Act. The Complaint proposed a total civil penalty not to exceed \$27,500 per day per violation for these violations, in accordance with Section 113(d) of the Act, 42 U.S.C. § 7413(d).

The Complainant and Respondent entered into negotiations in an attempt to settle the allegations contained in the Complaint. This Consent Agreement and Final Order are the result of such negotiations and fully and finally resolve all allegations set forth in the Complaint.

CONSENT AGREEMENT

1. Respondent admits the jurisdictional allegations of the Complaint and neither admits nor denies the specific factual allegations contained in the Complaint.

2. Respondent waives any right to contest the allegations of the Complaint and its right to appeal the proposed Final Order accompanying the Consent Agreement.

3. Respondent and Complainant agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorney's fees.

4. Respondent certifies by the signing of this Consent Agreement and Final Order that Respondent will come into compliance with the requirements of the National Emission Standards for Aerospace Manufacturing and Rework Facilities, 40 C.F.R. Part 63, Subpart GG, promulgated pursuant to Section 112

of the Act, 42 U.S.C. § 7412, no later than January 1, 2000.

Respondent also certifies that it will remain in compliance with these requirements after January 1, 2000.

5. Although not required by the Clean Air Act or any other federal, state, or local law, in settlement of this matter, Respondent has equipped paint booths #1 through #4 at its facility with new variable speed fans, access doors and method 319 approved filters. Respondent has also modified the fire extinguisher system in these paint booths. Furthermore, Respondent has expended no less than \$50,000 in furtherance of this project, and has documented these expenditures to EPA. Respondent hereby agrees to maintain and operate this project for three (3) years following the effective date of this Consent Agreement and Final Order.

6. Respondent shall submit a written and signed certification as to whether Respondent is maintaining and operating the environmentally beneficial project set forth in paragraph 5 of this Consent Agreement. Such certification shall be made by: a) January 10, 2001 for the period from entry of the Final Order through December 31, 2000, b) January 10, 2002 for the period of January 1, 2001 through December 31, 2001, and c) January 10, 2003 for the period of January 1, 2002 through the

end of the project. Such signed certification must include the following statement: "*I certify under penalty of law that this information is true, accurate, and complete.*"

7. Respondent shall submit to EPA, on a quarterly basis over a one-year period beginning from January 1, 2000, all operations records, data, logs, or other documents which are specified in **Appendix A**.

8. EPA hereby amends the total proposed penalty alleged in the Complaint to Ninety-Eight Thousand Dollars (\$98,000).

9. Respondent consents to the issuance of the Final Order hereinafter recited and consents to the payment of a mitigated civil penalty as set forth below.

10. Each signatory of this Consent Agreement certifies that he or she is fully authorized to enter into the terms of this Consent Agreement and Final Order.

FINAL ORDER

Pursuant to the provisions of the Clean Air Act, 42 U.S.C. § 7401 et seq., and based upon the information set forth in this Consent Agreement:

1. Respondent shall fully comply with all requirements of the Clean Air Act by January 1, 2000 and shall remain in compliance with those requirements thereafter.

2. Respondent shall pay a mitigated civil penalty of Ninety-Eight Thousand Dollars (\$98,000). Payment shall be made in twelve (12) installments of Eight Thousand One Hundred Sixty-Six Dollars and Sixty-Six Cents (\$8,166.66) per month for a period of one year. The first payment shall be postmarked no later than November 15, 1999. Subsequent payments shall be postmarked no later than the fifteenth day of each following month. The final payment shall be postmarked no later than October 15, 2000.

3. Respondent's failure to timely pay any portion of the mitigated civil penalty assessed herein or stipulated penalty, if needed, in accordance with the provisions and deadlines contained in this Final Order shall result in commencement of a civil action in Federal District Court to recover the total penalty amount due, together with interest thereon at the rate of five percent (5%) per annum. In addition, Respondent's failure to submit, in a timely manner, any of the above required payments, will result in the entire remaining balance becoming immediately due and payable, along with any costs, handling charges, and accumulated interest.

4. Respondent shall maintain and operate the environmentally beneficial project as set forth in paragraph 5 of this Consent Agreement. As set forth in paragraph 6 of this Consent Agreement, Respondent shall certify after each year of operation of the project that Respondent is still maintaining and operating the project.

5. In the event Respondent fails to implement the environmentally beneficial project as set forth in paragraph 5 of this Consent Agreement, in accordance with the terms and conditions of that paragraph, Respondent shall pay a stipulated penalty according to the following terms:

- a. If Respondent only operates and maintains the project set forth in paragraph 5 of the Consent Agreement for a period of one (1) year or less following the effective date of this Consent Agreement and Final Order, Respondent shall pay a stipulated penalty of Ten Thousand Dollars (\$10,000);
- b. If Respondent only operates and maintains the project set forth in paragraph 5 of the Consent Agreement for a period of more than one (1) year but less than two (2) years following the effective date of this Consent Agreement and Final Order, Respondent shall pay a stipulated penalty of Five Thousand Dollars (\$5,000);

- c. If Respondent only operates and maintains the project set forth in paragraph 5 of the Consent Agreement for a period of more than two (2) years but less than three (3) years following the effective date of this Consent Agreement and Final Order, Respondent shall pay a stipulated penalty of Two Thousand Five Hundred Dollars (\$2,500).

Any such stipulated penalty shall become immediately due and payable upon notice by EPA.

6. If Respondent fails to submit the certification required by paragraph 6 of the Consent Agreement, EPA will provide notice to Respondent of such fact. Respondent shall submit the certification within seven (7) days of receipt of such notice.

7. Respondent shall submit to EPA, on a quarterly basis over a one-year period beginning from January 1, 2000, all operations records, data, logs, or other documents which are specified in **Appendix A**. These documents will be due no later than 30 days after the end of each quarter (i.e., April 30, 2000; July 30, 2000; October 30, 2000; and January 30, 2001).

8. All documents required pursuant to paragraphs 6 and 7 of this Final Order shall be submitted to Richard Tripp, ARTD/APCO, U.S. Environmental Protection Agency Region VII, 901 North Fifth Street, Kansas City, Kansas 66101.

9. Payment of the mitigated civil penalty shall be by cashier's or certified checks, made payable to the "United States Treasury," shall bear the docket number for this matter, and shall be remitted to:

EPA - Region VII
Attn: Regional Hearing Clerk
c/o Mellon Bank
P.O. Box 360748M
Pittsburgh, Pennsylvania 15251.

10. A copy of each check should be forwarded to:

Alexander Chen
Office of Regional Counsel
U.S. Environmental Protection Agency - Region VII
901 North Fifth Street
Kansas City, Kansas 66101.

11. No portion of any civil penalty, interest or penalties paid by Respondent pursuant to the requirements of this Consent Agreement and Final Order shall be claimed by Respondent as deductions for federal, state, or local income tax purposes.

12. Nothing contained in this Order shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state and local environmental statutes and regulations and applicable permits.

13. Respondent and EPA shall bear their own costs and attorneys' fees incurred as a result of this matter.

COMPLAINANT:
UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY

By Alexander Chen
Alexander Chen
Assistant Regional Counsel

Date October 18, 1999

RESPONDENT:
AIR CAPITOL PLATING, INC.
WICHITA, KANSAS

By W. R. Birchfield
William R Birchfield

Title CEO

Date 14 Oct 99

IT IS SO ORDERED. This Final Order shall become effective immediately.

Karina Bonomeo
Regional Judicial Officer
U.S. Environmental Protection
Agency - Region VII

Date Oct. 25, 1999

Appendix A:

Quarterly Reporting Requirements for Air Capitol Plating

The following records, data, logs and other documents are required to be submitted to the U.S. Environmental Protection Agency - Region VII (EPA) on a quarterly basis for one year beginning January 1, 2000, pursuant to the Consent Agreement and Final Order entered into by Air Capitol Plating, Inc. and EPA.

Chromium Electroplating (40 C.F.R. Part 63 Subpart N)

Process records

1. The process operating time for each chromium electroplating or chromium anodizing tank must be recorded (40 C.F.R. § 63.346(b)(11)) **[Daily]**.
2. Records of all maintenance performed on the affected source, the add-on air pollution control device, and monitoring equipment (40 C.F.R. § 63.346(b)(2)) **[As appropriate]**.
3. Records of the occurrence, duration, and cause (if known) of each malfunction of process, add-on air pollution control, and monitoring equipment (40 C.F.R. § 63.346(b)(3)) **[As appropriate]**.
4. Records of actions taken during periods of malfunction when such actions are inconsistent with the operation and maintenance plan (40 C.F.R. § 63.346(b)(4)) **[As appropriate]**.
5. The specific identification (i.e., the date and time of commencement and completion) of each period of excess emissions, as indicated by monitoring data, that occurs during malfunction of the process, add-on air pollution control, or monitoring equipment (40 C.F.R. § 63.346(b)(9)) **[As appropriate]**.
6. The specific identification (i.e., the date and time of commencement and completion) of each period of excess emissions, as indicated by monitoring data, that occurs during periods other than malfunction of the process, add-on air pollution control, or monitoring equipment (40 C.F.R. § 63.346(b)(10)) **[As appropriate]**.

Packed-bed scrubber (PBS) systems

1. Pressure drop across system (40 C.F.R. §§ 63.343(c)(2) / 63.346(b)(8)) **[Daily]**.
2. Velocity pressure at system inlet (40 C.F.R. §§ 63.343(c)(2) / 63.346(b)(8)) **[Daily]**.
3. Visually inspect device to ensure there is proper drainage, no chromic acid buildup on the packed beds, and no evidence of chemical attack on the structural integrity of the device (40 C.F.R. §§ 63.346(b)(1) / 63.342 Table 1) **[1/quarter]**.
4. Visually inspect back portion of the chevron-blade mist eliminator to ensure that it is dry and there is no breakthrough of chromic acid mist (40 C.F.R. §§ 63.346(b)(1) / 63.342 Table 1) **[1/quarter]**.
5. Visually inspect ductwork from tank or tanks to the control device to ensure there are no leaks (40 C.F.R. §§ 63.346(b)(1) / 63.342 Table 1) **[1/quarter]**.

Pitot tube

1. Backflush with water, or remove from the duct and rinse with fresh water. Replace in the duct and rotate 180 degrees to ensure that the same zero reading is obtained. Check pitot tube ends for damage. Replace pitot tube if cracked or fatigued (40 C.F.R. §§ 63.346(b)(1) / 63.342 Table 1) **[1/quarter]**.

Operating and Maintenance Plan

1. Provide copy (40 C.F.R. § 63.342(f)(3)) **[First quarter only]**.

Degreasing

(40 C.F.R. Part 63 Subpart T)

1. Provide copy of Owner's manuals, or if not available, written maintenance and operating procedures, for the solvent cleaning machine and control equipment (40 C.F.R. § 63.467(a)(1)) **[First quarter only]**.

Conditions

1. If a freeboard refrigeration device is used to comply with these standards, the owner or operator shall use a thermometer or thermocouple to measure the temperature at the center of the air blanket during the idling mode (40 C.F.R. §§ 63.466(a)(1) / 63.467(b)(1)) **[Weekly]**.
2. Hoist Speed - The owner or operator shall determine the hoist speed by measuring the time it takes for the hoist to travel a measured distance. The speed is equal to the distance in meters divided by the time in minutes (meters per minute). The monitoring shall be conducted monthly. If after the first year, no exceedances of the hoist speed are measured, the owner or operator may begin monitoring the hoist speed quarterly (40 C.F.R. §§ 63.466(c)(1), (2) / 63.467(b)(1)) **[Quarterly]**.

Reduced room draft

1. Record the reading for each corner. Average the values obtained at each corner and record the average wind speed (40 C.F.R. § 63.466(d)(1)(i)) **[Quarterly]**.
2. Record room parameters (i.e., redirecting fans, closing doors and windows, etc.) established during the initial compliance test that are used to achieve the reduced room draft (40 C.F.R. § 63.466(d)(1)(ii)) **[Weekly]**.

Aerospace Manufacturing (40 C.F.R. Part 63 Subpart GG)

Cleaning operation

1. The name, vapor pressure, and documentation showing the organic HAP constituents of each cleaning solvent used at the facility. All data and calculations that demonstrate that the cleaning solvent complies with one of the composition requirements (40 C.F.R. §§ 63.752(b)(1), (2)) **[As appropriate]**.
2. A record of all leaks from enclosed spray gun cleaners identified pursuant to § 63.751(a) that includes for each leak found: source identification; date leak was discovered; and date leak was repaired (40 C.F.R. § 63.752(b)(5)) **[As appropriate]**.

3. Any instance where a noncompliant cleaning solvent is used for a non-exempt hand-wipe cleaning operation (40 C.F.R. § 63.753(b)(1)(i)) **[Semiannual]**.
4. A list of any new cleaning solvents used for hand-wipe cleaning in the previous 6 months and, as appropriate, their composite vapor pressure or notification that they comply with the composition requirements specified in § 63.744(b)(1) (40 C.F.R. § 63.753(b)(1)(ii)) **[Semiannual]**.
5. Any instance where a noncompliant spray gun cleaning method is used (40 C.F.R. § 63.753(b)(1)(iii)) **[Semiannual]**.
6. Any instance where a leaking enclosed spray gun cleaner remains unrepaired and in use for more than 15 days (40 C.F.R. § 63.753(b)(1)(iv)) **[Semiannual]**.
7. If the operations have been in compliance for the semiannual period, a statement that the cleaning operations have been in compliance with the applicable standards (40 C.F.R. § 63.753(b)(1)(v)) **[Semiannual]**.
8. Sources shall also submit a statement of compliance signed by a responsible company official certifying that the facility is in compliance with all applicable requirements (40 C.F.R. § 63.753(b)(1)(v)) **[Semiannual]**.

Primer and topcoat application operations organic HAP and VOC.

1. The name and VOC content as received and as applied of each primer and topcoat used at the facility (40 C.F.R. § 63.752(c)(1)) **[As appropriate]**.
2. For uncontrolled primers (organic HAP content less than 350 g/l (2.9 lb/gal) less water as applied and VOC content less than 350 g/l (2.9 gal) less water and exempt solvents as applied) and topcoats that meet the organic HAP and VOC content limits in §63.745(c)(1) through (c)(4) (without averaging (40 C.F.R. § 63.752(c)(2))):
 - a. The mass of organic HAP emitted per unit volume of coating as applied (less water) (H_1) and the mass of VOC emitted per unit volume of coating as applied (less water and exempt solvents) (G_1) for each coating formulation within each coating category used each month (as calculated using the procedures specified in § 63.750(c) and (e)) **[Monthly]**;

- b. All data, calculations, and test results (including EPA Method 24 results) used in determining the values of H_i and G_i ; and
 - c. The volume (gal) of each coating formulation within each coating category used each month **[Monthly]**.
3. For ``low HAP content`` uncontrolled primers with organic HAP content less than or equal to 250 g/l (2.1 lb/gal) less water as applied and VOC content less than or equal to 250 g/l (2.1 lb/ gal) less water and exempt solvents as applied (40 C.F.R. § 63.752(c)(3)):
- a. Annual purchase records of the total volume of each primer purchased; and
 - b. All data, calculations, and test results (including EPA Method 24 results) used in determining the organic HAP and VOC content as applied. These records shall consist of the manufacturer's certification when the primer is applied as received, or the data and calculations used to determine H_i if not applied as received **[As appropriate]**.

Primer and topcoat application operations inorganic HAP emissions

- 1. Each owner or operator complying with § 63.745(g) for the control of inorganic HAP emissions from primer and topcoat application operations through the use of a dry particulate filter system or a HEPA [high efficiency particulate air] filter system shall record the pressure drop across the operating system once each shift during which coating operations occur (40 C.F.R. § 63.752(d)(1)) **[Once per shift]**.
- 2. This log shall include the acceptable limit(s) of pressure drop or water flow rate, as applicable, as specified by the filter or booth manufacturer or in locally prepared operating procedures (40 C.F.R. § 63.752(d)(3)) **[As appropriate]**.

CERTIFICATE OF SERVICE


I hereby certify that on the 25th day of October 1999, a true and correct copy of the original Consent Agreement and Final Order was sent by certified mail return receipt requested to:

David Steele, Registered Agent
Air Capitol Plating
3900 West Central
Wichita, Kansas 67203

Adam Meek, Esq.
Katten Muchin & Zavis
525 West Monroe Street
Chicago, Illinois 60661-3693

and hand delivered to:

Alexander Chen
Assistant Regional Counsel
Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101


Regional Hearing Clerk